

**Ferrari**

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Ferrari North America, Inc.

August 10, 2001  
NHTSA-01-9628-6  
NHTSA-01-9630-6**By Fax and Regular Mail**

Ms. Marilyn Jacobs  
Director of the Office of Vehicle Safety Compliance  
National Highway Traffic Safety Administration  
Docket Management - Room PL-401  
400 Seventh St., SW  
Washington, D.C. 20590

Re: Docket Numbers: NHTSA 2001-9523; 2001-9630

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OFFICE OF TRANSPORTATION

Dear Ms. Jacobs:

Ferrari North America, Inc. ("FNA") writes this letter in response to the above referenced petitions filed by J.K. Technologies ("JKT"), which seek decisions that non-conforming 2001 Ferrari 550 and 360 passenger cars (the "Vehicles") are eligible for importation into the United States. It should be noted that FNA requests additional time to supplement its response for the reasons set forth in FNA's letter to you dated August 9, 2001.

FNA respectfully requests that the petition be denied for the reasons as set forth below.

Under 49 U.S.C. 30141(a) (1) (A), a motor vehicle that was not originally manufactured to conform to all applicable Federal Motor Vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. After careful review, FNA believes that the vehicles referred to in JKT's petition are not substantially similar to the Ferrari 550 originally manufactured for importation into and sale in the United States, and are not capable of being readily altered to conform to all Federal motor vehicle safety standards. In addition, a review of the Petitions raise other serious concerns, including those of safety and emissions.



### Substantially Similar

Initially, FNA respectfully requests NHTSA to provide FNA with a definition for the term "substantially similar" as that term is used in 49. U.S.C. 30141(A) (1) (a). Based simply on the dollar value of U.S. specification parts that are needed to conform the Vehicles to U.S. specifications (see below), FNA believes that the vehicles could not possibly be determined to be substantially similar to U.S. specification vehicles of the same model designations. If NHTSA has previously defined this term, FNA would appreciate that information. If NHTSA has not yet defined this term, FNA believes that it should be defined prior to making a determination on the Petitions.

### Vehicle Identification Numbers

JKT did not provide NHTSA with vehicle identification numbers for the Vehicles for which it seeks determination. Without this information, FNA does not know the country(ies) of origin of the Vehicles and cannot determine precisely what modifications would be necessary assuming that the Vehicles could be altered to conform to U.S. specifications. Additionally, JKT did not provide NHTSA with the vehicle identification numbers for the U.S. specification vehicles that are to be used for comparison.

Additionally, the Petition seek determinations for the "2001 550 Series Ferrari" and the "2001 360 Series Ferrari". It should be noted that FNA imports and distributes "hardtop" and convertible versions of the Vehicles, and that without the VINs, it is impossible to determine whether JKT wishes a determination to import and modify hardtops, convertibles, or both.

### Parts Required for Compliance with U.S. Specifications

FNA was able to research 2000 MY Ferrari 360 and 550 vehicles (FNA believes that 2001 MY vehicles would show a similar difference in parts required to met U.S. specifications, but additional time is needed to confirm this fact), and has determined that 234 parts are necessary to be changed for the Ferrari 550 to meet U.S. emissions and safety specifications with a suggested retail price of \$56,583.89. 306 parts are necessary to conform a Ferrari 360 to U.S. emissions and safety specifications with a suggested retail price of \$68,020.87. It should also be noted that unless all of these parts were installed, the Vehicles would not be substantially similar to those vehicles that Ferrari SpA crash tested and certified to be in conformance



with U.S. motor vehicle safety standards. The vehicles that JKT wishes to import into the U.S. have been manufactured to other countries' motor vehicle safety standards; not those of the U.S. FNA also observes that each of the above referenced parts is specifically manufactured for the U.S. market, and contains a different part number than those parts manufactured to conform to the standards of other countries. Additionally, FNA does not believe that the Petitioner, by whatever means it used to compare the Vehicles to U.S. specification vehicles, exercised due care. This appears evident when comparing those parts cited in the Petitions as necessary to conform the Vehicles to U.S. specifications with the information contained in this response.

In conducting the research to prepare its response, FNA also learned that of the above referenced parts, there are 21 parts necessary for the 2000 MY 550 Maranello to meet U.S. emissions and safety specifications and 45 parts necessary for the 2000 MY 360 Modena to meet U.S. emissions and safety specifications for which no purchase activity has yet occurred. This means that no parts orders have been placed with either FNA or Ferrari SpA for any of these additional parts; therefore FNA believes that if any registered importer has attempted to modify a 2000 MY 550 or 360, it has not done so properly. (FNA finds it interesting that JKT states, in page 2 of each Petition, under Part 593. 6 (a) (5), "In all areas that have to be modified the parts must be supplied by the manufacturer"). FNA finds this quite unusual, as FNA, or its parent, Ferrari SpA of Italy are likely the only sources of genuine Ferrari parts.

#### FMVSS Standards

In the Petitions, JKT provides a listing citing various Federal Motor Vehicle Safety Standards ("FMVSS") and then attempts to show that JKT will either not have to make any changes to a particular part or system to meet the applicable FMVSS, or will be able to do so easily. FNA rejects this claim, at least as to certain of the listed standards. It should be noted that Ferrari SpA has not certified that the European spec 550s or 360s meet U.S. Federal Motor Vehicle Safety Standards nor have they performed any FMVSS certification tests on vehicles containing the hundreds of non-U.S. parts discussed above.

FMVSS 214 – Contrary to JKT's claim, non-U.S. specification Ferrari 550s do not contain any side impact intrusion bars, and have not been certified to meet FMVSS 214.



FMVSS 301 – Contrary to JKT's claim, the fuel evaporation system in the Vehicles are also different, and have not been certified to meet FMVSS 301.

CFR 581 – Contrary to JKT's claim, the Vehicles' bumpers, and mounting points for the bumpers are different between non-U.S. specification and U.S. specification vehicles. The non-U.S. specification bumpers and have not been certified to meet CFR 581.

FMVSS 208 – Contrary to JKT's claim, The seat belt installed in the Vehicles have not been certified to meet FMVSS 208. For example, the European version does not have the KISI (passenger side) to install the child seat as required. Additionally, U.S. specifications require a child tether, whereas the Vehicles do not come equipped with them.

### Recalls

Another very important safety issue that FNA would urge NHTSA to consider is that of safety recalls. NHTSA is well aware that manufacturers and authorized importers such as FNA are responsible for notifying retail customers concerning safety related recalls and providing repairs at no cost to the customers generally through their network of authorized dealers. Manufacturers and authorized importers (such as FNA) are also required to report recall completion rates to NHTSA. Are registered importers held to the same high standards? Also, as noted in their comments to NHTSA Docket 2000-8159, American Honda Motor Co., Inc. ("Honda") noted in connection with vehicles being imported by registered imports into the U.S. from Canada, sincere questions exist as to the ability of registered importers to conduct recall campaigns.

An RI would not be considered competent, in many instances to effectively carry out the recall repair. Recall parts are distributed to authorized dealers who are charged by the manufacturer with competency in repairing the recalled vehicles. RIs, do not have the specialized training given by the manufacturers, nor would they be considered competent to install recall parts, which in some instances requires the use of specialized tools.

CAFE – FNA paid over \$1,000,000 for MY 1999, and over \$600,000 (estimated) for MY 2000 in CAFE penalties. Do registered Imports pay their fair share of CAFE Penalties?



FNA also urges NHTSA to again review Honda's comments to 2000-8159 with regard to CAFE, and also the comments of the Coalition of Vehicle Manufacturers to the same petition.

Luxury Tax -- For calendar year 2000, Ferrari retail customers in the U.S. paid in excess of \$7,000,000 in luxury tax in connection with the purchase of their new Ferrari vehicle. However, neither the registered importers nor their ultimate customer pays any such tax. While FNA recognizes that the new vehicle luxury tax will "sunset" after 2001, it nonetheless reveals another fundamental unfairness of the R.I. program.

FNA respectfully urges NHTSA to deny the Petitions based on the information provided in this response. However, if NHTSA is not yet inclined to deny the Petitions, FNA urges NHTSA to provide FNA until September 28, 2001 to supplement its response for the reasons set forth in our letter dated August 9<sup>th</sup>.

Sincerely,

*Enzo Francesconi*  
Enzo Francesconi,  
Director, Technical Services